

## REMARKS

### **Drawings**

The Examiner has indicated that the amended Figure 3 received 30 June 2004 is acceptable. A replacement drawing sheet is attached as an Appendix to this Amendment.

### **Rejections based on the Prior Art**

The Examiner rejected claims 1, 8 and 10 under 35 USC § 102(e), contending that the subject matter of these claims was disclosed in U.S. Patent No. 6,604,321 (the '321 patent). The Examiner rejected claim 9 under 35 USC § 103(a), contending that the subject matter of this claim would have been obvious in light of the '321 patent and U.S. Patent No. 5,097,627 (the '627 patent).

In the Office Action, at paragraph 6, the Examiner states: "Thus, ref. 60 of 321 is a narrow opening which does assist in receiving the containers. Although these slots may be a little slanted, they are nevertheless still generally parallel to an axis of the structure ... . Also, slots can be represented by grooves created by refs. 38 running longitudinal along the axis. Each one of these "sections" created by refs. 36, 38 can be considered slot based on the definition, which is a narrow groove." It is respectfully submitted that neither notches 60 of the '321 patent, nor the "sections" created by ridges 36, 38 of the '321 patent, are equivalent to the "longitudinal slots" recited in claim 1.

Claim 1 has been amended to further clarify the nature of the longitudinal slots recited therein. In particular, claim 1 has been amended to recite that the longitudinal slots are "configured to allow slidable movement of said containers in a direction generally parallel to said axis". None of the cited references teach or suggest a rotary hydroponic plant-growing machine having longitudinal slots as recited in claim 1. Also, new claim 17 has been added, reciting that "said slots are sized to allow slidable movement of said containers in said direction generally parallel to said axis along substantially the entire length of said cylindrical structure".

Notches 60 of the '321 patent allow the pins of pot 58 to pass therethrough such that pot 58 can be received in hole 56 (see col. 3, ln 10-14 of the '321 patent). Notches 60 do not "allow slidable movement" of pot 58 "in a direction generally parallel to said axis". Ridges 36, 38 of the '321 patent are provided for reinforcement (see col. 2, ln. 32-35 of the '321 patent).

Ridges 36, 38 do not receive any containers, nor do they allow any movement of any containers.

Accordingly, it is submitted that amended claim 1, as well as claims 8-10 and 17 which depend therefrom, are patentable over the cited references.

Furthermore, the Applicant respectfully requests consideration of the withdrawn claims 2-7 and 11-16 which are directed to species I, II, III and V as identified by the Examiner, since it is submitted that the generic claim 1 is allowable.

Respectfully submitted,

By:



Richard A. Johnson

Registration No. 56,080

tel: 604.669.3432 ext. 9046

fax: 604.681.4081

e-mail: docket3@patentable.com

Vancouver, B.C.  
CANADA